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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/348,416 07/07/99 BANTER

C FL/128

EXAMINER

WM01/0918

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DABNEY, P

ART UNIT

PAPER NUMBER

2643

DATE MAILED:

09/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/348,416

Applicant(s)

BANTER ET AL.

Examiner

Phylesha Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 05 July 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-12 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) 13-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-12 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

This is a response to the application received on 5 July 2001 in which claims 1-12 and 24-27 are pending, and claims 13-23 were canceled. Applicant's arguments have been fully considered but they are not persuasive.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

1. Claims 1-4, 6-7, 9-12, and 24-26 are rejected under 35 U.S.C. 102(e) as being inherently anticipated by Repolle et al (U.S. Patent No. 5,828,012).

Regarding claim 1, Repolle discloses a sound-transmissive protective cover assembly (14), comprising a microporous membrane (22) supported only around its periphery by at least one adhesive support system (20, 24) such that at least a portion of the membrane (22) is free to move in response to acoustic energy, the assembly having an instantaneous water entry pressure acoustic transmission loss of no more than 3 dB (col. 4, lines 20-21) in the range of frequencies from 300 to 3000 Hz (col. 10, line 27).

Regarding claim 2, Repolle discloses the sound-transmissive protective cover further comprising means for bonding the assembly (14) to an acoustic device (figs 1-2, cellular phone).

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Regarding claim 3, Repolle discloses the sound-transmissive protective cover, wherein the acoustic device is a transducer (12 or 13).

Regarding claim 4, Repolle discloses the assembly (14) further comprising a black color (col.5, lines 14-15).

Regarding claim 6, Repolle discloses the assembly (14) further comprising an acoustic gasket (40).

Regarding claim 7, Repolle discloses the assembly (14) the acoustic gasket (40) being bonded to the second surface of the membrane (20, 22, 24; fig.6a).

Regarding claim 9, Repolle discloses the assembly (14) having a transmission loss of no more than 2 dB col. 4, lines 20-21).

Regarding claim 11, Repolle discloses the membrane (20, 22, 24) is ePTFE (col. 5, lines 7-10).

Regarding claim 12, Repolle discloses the microporous membrane (22) is supported only around its periphery by a plurality of adhesive support systems (20, 24).

Regarding claim 24, Repolle discloses the microporous membrane (22) is supported by the adhesive support systems (20, 24) in a captive construction (fig. 4).

Regarding claim 25, Repolle discloses the cover assembly (14) further comprising an acoustic gasket (40).

Regarding claim 26, Repolle discloses a method of using a microporous membrane (22) as a sound-transmissive acoustic protective cover for an electronic device having a transducer, comprising: supporting a microporous membrane (22) only around its periphery with at least one

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adhesive support system (20, 24) such that at least a portion of the membrane (22) is free to move in response to acoustic energy; and orienting the supported microporous membrane (22) so as to cover the transducer in the electronic device, thereby forming a sound-transmissive acoustic protective cover; whereby the cover has an instantaneous water entry pressure of at least one meter water column and an overall acoustic transmission loss of no more than 3 dB (col. 4, line 21) in the range of frequencies from 300 to 3000 Hz (col. 10, line 27).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 5, 8, 10, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Repolle et al (U.S. Patent No. 5,828,012).

Regarding claims 5 and 27, Repolle does not teach the assembly (14) or method further comprising an oleophobic treatment on the microporous membrane (22). However, the Examiner takes official notice that it is well-known in the art to apply oleophobic treatments to PTFE or ePTFE materials. Therefore, it would have been obvious to one of ordinary skill in the art that oleophobic treatments could be applied to make the material into a filter for repelling particular oils or gases.

Regarding claim 8, Repolle teaches the disclosed invention except he does not teach the assembly (14) having a particulate collection efficiency of at least 99.999999%. The Examiner takes official notice that it is well-known in the art to be able to apply an Industrial Filtration

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Panel Tester developed by Gore & Associates, which consists of challenging a porous sample with a stream of air carrying a dust particle at a controlled flow rate and velocity. Therefore, it would have been obvious to one of ordinary skill that particulate collection efficiency of at least 99.99999% could be obtained through routine experimentation necessary for achieving the optimum or workable ranges.

Regarding claim 10, Repolle teaches the disclosed invention except he does not teach the assembly (14) having a long-term water entry pressure of at least 1 meter water column for a minimum of 30 minutes. The Examiner takes official notice that it is well-known in the art to be able to apply a Water Entry Pressure (WEP) Test developed by Gore & Associates to determine the waterproofness, which consists of challenging a porous sample with a column of water at a controlled pressure. Therefore, it would have been obvious to one of ordinary skill that a long-term water entry pressure of at least 1 meter water column for a minimum of 30 minutes could be obtained through routine experimentation necessary for achieving the optimum or workable ranges.

### *Response to Arguments*

1. With respect to the arguments for claims 1-12 and 24-27, the Examiner disagrees with the Applicant's statements presented on page 2 of the Remarks. Although, the Applicant argues that Repolle teaches a "support layer which covers the entire surface of the protective membrane including the unbounded region". The Examiner would like to point out that although Repolle teaches an additional support layer (30), this layer does not touch or obstruct the movement of the membrane in the unbounded region. The support layer (30) is separated from the membrane

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(22) by adhesive supports (20, 24). These adhesive supports (20, 24) and membrane (22) satisfy the requirements of the claim language. Furthermore, the claims do not teach that the surface of "the protective membrane is not covered by any support layer in the unbounded region."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha Dabney whose telephone number is 703-306-5415. The examiner can normally be reached on Mondays, Tuesday, Thursdays, and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 872-9314, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

(703) 306-0377, for customer service questions.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

PLD

September 17, 2001

SILT  
SINH TRAN  
PRIMARY EXAMINER